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AFROCHELLA LIMITED; BBNZ LIVE LIMITED; CULUTRE

MANAGEMENT GROUP LIMITED; and DOES 1-20

(Additional Counsel Listed on the Following Page)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

COACHELLA MUSIC FESTIVAL,
LLC AND GOLDENVOICE, LLC,

Plaintiffs,

v.

AFROCHELLA LIMITED; BBNZ LIVE
LIMITED; CULTURE MANAGEMENT
GROUP LIMITED; and DOES 1-20,

Defendants.

Case No.: 2:22-cv-07275

**DEFENDANTS AFROCHELLA
LIMITED, BBNZ LIVE LIMITED,
AND CULTURE MANAGEMENT
GROUP LIMITED'S FIRST
AMENDED ANSWER TO
COMPLAINT**

Complaint filed: October 5, 2022

1 **STEPTOE & JOHNSON LLP**

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8 *Attorney for Defendants*

9 AFROCHELLA LIMITED; BBNZ LIVE LIMITED; CULUTRE

10 MANAGEMENT GROUP LIMITED; and DOES 1-20

Defendants Afrochella Limited, BBNZ Live Limited, and Culture Management Group Limited (“Defendants”) hereby file, by and through their undersigned counsel, this First Amended Answer, Affirmative Defenses, and Counterclaims in response to the Complaint filed by Plaintiffs Coachella Music Festival, LLC and Goldenvoice, LLC (“Plaintiffs”), pursuant to the Federal Rules of Civil Procedure and the Court’s individual rules and practices as follows:

FIRST AMENDED ANSWER TO COMPLAINT

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Complaint.

2. Defendants deny the allegations set forth in Paragraph 2 of the Complaint.

3. Defendants admit that they promote, market, and advertise a multi-day music and arts festival in Ghana, Africa, which they named AFROCHELLA, and otherwise denies the allegations set forth in Paragraph 3 of the Complaint.

4. Defendants admit to inadvertently submitting Application Nos. GH/T/2019/000374 and GH/T/2019/000356 for trademark registration with the Registrar-General’s Department for the Republic of Ghana (the “Registrar”). Except as admitted herein, Defendants deny the remaining allegations set forth in Paragraph 4 of the Complaint.

5. Defendants deny that they are involved in ongoing trademark infringement and unfair competition in Ghana and otherwise admit the allegations set forth in Paragraph 5 of the Complaint.

6. Defendants deny the allegations set forth in Paragraph 6 of the Complaint.

7. Defendants deny the allegations set forth in Paragraph 7 of the Complaint.

1 8. Defendants deny the allegations set forth in Paragraph 8 of the
2 Complaint.

3 **JURISDICTION AND VENUE**

4 9. Paragraph 9 of the Complaint states a legal conclusion to which no
5 response is required.

6 10. Paragraph 10 of the Complaint states a legal conclusion to which no
7 response is required. To the extent a response is required, Defendants state that,
8 for the limited purposes of this action only, Defendants do not dispute that this
9 Court has jurisdiction over the subject matter of this action with respect to
10 Defendants. Defendants deny the remaining allegations set forth in Paragraph 10.

11 11. Paragraph 11 of the Complaint states a legal conclusion to which no
12 response is required. To the extent a response is required, Defendants state that,
13 for the limited purposes of this action only, Defendants do not dispute that this
14 Court has supplemental jurisdiction of this Court. Defendants deny the remaining
15 allegations set forth in Paragraph 11 of the Complaint.

16 12. Paragraph 12 of the Complaint states a legal conclusion to which no
17 response is required. To the extent a response is required, Defendants deny the
18 allegations set forth in Paragraph 12 of the Complaint.

19 13. Paragraph 13 of the Complaint states a legal conclusion to which no
20 response is required. To the extent a response is required, Defendants deny the
21 allegations set forth in Paragraph 13 of the Complaint.

22 14. Paragraph 14 of the Complaint states a legal conclusion to which no
23 response is required. To the extent a response is required, Defendants deny the
24 allegations set forth in Paragraph 14 of the Complaint.

25 **THE PARTIES**

26 15. Defendants lack knowledge or information sufficient to form a belief
27 as to the truth of the allegations set forth in Paragraph 15 of the Complaint.
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1 16. Defendants lack knowledge or information sufficient to form a belief
2 as to the truth of the allegations set forth in Paragraph 16 of the Complaint.

3 17. Defendants admit that Afrochella Limited is a limited liability
4 company organized and existing under the laws of the Republic of Ghana. Except
5 as admitted herein, Defendants deny the remaining allegations set forth in
6 Paragraph 17 of the Complaint.

7 18. Defendants admit that BBNZ Live Limited is a limited liability
8 company organized and existing under the laws of the Republic of Ghana.
9 Defendants further admit that BBNZ Live Limited is a shareholder of Afrochella
10 Limited. Except as admitted herein, Defendants deny the remaining allegations set
11 forth in Paragraph 18 of the Complaint.

12 19. Defendants admit that Culture Management Group Limited is a
13 limited liability company organized and existing under the laws of the Republic of
14 Ghana. Defendants further admit that Culture Management Group is a parent
15 company for Afrochella Limited. Except as admitted herein, Defendants deny the
16 remaining allegations set forth in Paragraph 19 of the Complaint.

17 20. Defendants lack knowledge or information sufficient to form a belief
18 as to the truth of the allegations set forth in Paragraph 20 of the Complaint.

19 21. Defendants deny the allegations set forth in Paragraph 21 of the
20 Complaint.
21

22 **PLAINTIFFS' CHELLA AND COACHELLA MUSIC FESTIVAL,**
23 **TRADEMARKS, AND SERVICE MARKS**

24 22. Defendants lack knowledge or information sufficient to form a belief
25 as to the truth of the allegations set forth in Paragraph 22 of the Complaint.

26 23. Defendants lack knowledge or information sufficient to form a belief
27 as to the truth of the allegations set forth in Paragraph 23 of the Complaint.
28

1 24. Defendants lack knowledge or information sufficient to form a belief
2 as to the truth of the allegations set forth in Paragraph 24 of the Complaint.

3 25. Defendants lack knowledge or information sufficient to form a belief
4 as to the truth of the allegations set forth in Paragraph 25 of the Complaint.

5 26. Defendants lack knowledge or information sufficient to form a belief
6 as to the truth of the allegations set forth in Paragraph 26 of the Complaint.

7 27. Defendants lack knowledge or information sufficient to form a belief
8 as to the truth of the allegations set forth in Paragraph 27 of the Complaint.

9 28. Defendants lack knowledge or information sufficient to form a belief
10 as to the truth of the allegations set forth in Paragraph 28 of the Complaint.

11 29. Defendants lack knowledge or information sufficient to form a belief
12 as to the truth of the allegations set forth in Paragraph 29 of the Complaint.

13 30. Defendants lack knowledge or information sufficient to form a belief
14 as to the truth of the allegations set forth in Paragraph 30 of the Complaint.

15 31. Defendants lack knowledge or information sufficient to form a belief
16 as to the truth of the allegations set forth in Paragraph 31 of the Complaint.

17 32. Defendants lack knowledge or information sufficient to form a belief
18 as to the truth of the allegations set forth in Paragraph 32 of the Complaint.

19 33. Defendants lack knowledge or information sufficient to form a belief
20 as to the truth of the allegations set forth in Paragraph 33 of the Complaint.

21 34. Defendants lack knowledge or information sufficient to form a belief
22 as to the truth of the allegations set forth in Paragraph 34 of the Complaint.

23 35. Defendants lack knowledge or information sufficient to form a belief
24 as to the truth of the allegations set forth in Paragraph 35 of the Complaint.

25 36. Defendants lack knowledge or information sufficient to form a belief
26 as to the truth of the allegations set forth in Paragraph 36 of the Complaint.
27
28

1 37. Defendants lack knowledge or information sufficient to form a belief
2 as to the truth of the allegations set forth in Paragraph 37 of the Complaint.

3 38. Paragraph 38 of the Complaint states a legal conclusion to which no
4 response is required. To the extent a response is required, Defendants lack
5 knowledge or information sufficient to form a belief as to the truth of the
6 allegations set forth in Paragraph 38 of the Complaint.

7 39. Paragraph 39 of the Complaint states a legal conclusion to which no
8 response is required. To the extent a response is required, Defendants lack
9 knowledge or information sufficient to form a belief as to the truth of the
10 allegations set forth in Paragraph 39 of the Complaint.

11 40. Paragraph 40 of the Complaint states a legal conclusion to which no
12 response is required. To the extent a response is required, Defendants lack
13 knowledge or information sufficient to form a belief as to the truth of the
14 allegations set forth in Paragraph 40 of the Complaint.

15 41. Paragraph 41 of the Complaint states a legal conclusion to which no
16 response is required. To the extent a response is required, Defendants lack
17 knowledge or information sufficient to form a belief as to the truth of the
18 allegations set forth in Paragraph 41 of the Complaint.

19 42. Defendants lack knowledge or information sufficient to form a belief
20 as to the truth of the allegations set forth in Paragraph 42 of the Complaint.

21 43. Defendants lack knowledge or information sufficient to form a belief
22 as to the truth of the allegations set forth in Paragraph 43 of the Complaint.

23 44. Paragraph 44 of the Complaint states a legal conclusion to which no
24 response is required. To the extent a response is required, Defendants lack
25 knowledge or information sufficient to form a belief as to the truth of the
26 allegations set forth in Paragraph 44 of the Complaint.
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1 45. Defendants lack knowledge or information sufficient to form a belief
2 as to the truth of the allegations set forth in Paragraph 45 of the Complaint.

3 46. Defendants lack knowledge or information sufficient to form a belief
4 as to the truth of the allegations set forth in Paragraph 46 of the Complaint.

5 47. Paragraph 47 of the Complaint states a legal conclusion to which no
6 response is required. To the extent a response is required, Defendants lack
7 knowledge or information sufficient to form a belief as to the truth of the
8 allegations set forth in Paragraph 47 of the Complaint.

9 48. Defendants lack knowledge or information sufficient to form a belief
10 as to the truth of the allegations set forth in Paragraph 48 of the Complaint.

11 49. Defendants lack knowledge or information sufficient to form a belief
12 as to the truth of the allegations set forth in Paragraph 49 of the Complaint.

13 50. Defendants lack knowledge or information sufficient to form a belief
14 as to the truth of the allegations set forth in Paragraph 50 of the Complaint.

15 51. Defendants lack knowledge or information sufficient to form a belief
16 as to the truth of the allegations set forth in Paragraph 51 of the Complaint.

17 52. Defendants lack knowledge or information sufficient to form a belief
18 as to the truth of the allegations set forth in Paragraph 52 of the Complaint.

19 53. Defendants lack knowledge or information sufficient to form a belief
20 as to the truth of the allegations set forth in Paragraph 53 of the Complaint.

21 54. Defendants lack knowledge or information sufficient to form a belief
22 as to the truth that Plaintiffs have filed numerous oppositions to other similar
23 marks, and otherwise admits the allegations set forth in Paragraph 54 of the
24 Complaint.

25 55. Paragraph 55 of the Complaint states a legal conclusion to which no
26 response is required. To the extent a response is required, Defendants lack
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1 knowledge or information sufficient to form a belief as to the truth of the
2 allegations set forth in Paragraph 55 of the Complaint.

3 56. Defendants lack knowledge or information sufficient to form a belief
4 as to the truth of the allegations set forth in Paragraph 56, including subparagraphs
5 (a)-(k), of the Complaint.

6 57. Paragraph 57 of the Complaint states a legal conclusion to which no
7 response is required. To the extent a response is required, Defendants lack
8 knowledge or information sufficient to form a belief as to the truth of the allegations
9 set forth in Paragraph 57 of the Complaint.

10 58. Paragraph 58 of the Complaint states a legal conclusion to which no
11 response is required. To the extent a response is required, Defendants lack
12 knowledge or information sufficient to form a belief as to the truth of the allegations
13 set forth in Paragraph 58 of the Complaint.

14 59. Defendants lack knowledge or information sufficient to form a belief
15 as to the truth of the allegations set forth in Paragraph 59 of the Complaint.

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17 **DEFENDANTS' ALLEGED INFRINGING CONDUCT**

18 60. Defendants admit to operating the Afrochella music festival in Accra,
19 Ghana. Except as admitted herein, Defendants lack knowledge or information
20 sufficient to form a belief as to the truth of the remaining allegations set forth in
21 Paragraph 60 of the Complaint.

22 61. Defendants admit the upcoming Afrochella music festival is
23 scheduled to take place on December 28, 29, 2022.

24 62. Defendants admit the Afrochella music festival features musical
25 artists who perform live music for attendees. Except as admitted herein,
26 Defendants deny the remaining allegations set forth in Paragraph 62 of the
27 Complaint.
28

1 63. Defendants deny the allegations set forth in Paragraph 63 of the
2 Complaint.

3 64. Defendants lack knowledge or information sufficient to form a belief
4 as to the truth of the allegations set forth in Paragraph 64 of the Complaint.

5 65. Defendants deny the allegations set forth in Paragraph 65 of the
6 Complaint.

7 66. Defendants deny the allegations set forth in Paragraph 66 of the
8 Complaint.

9 67. Defendants deny the allegations set forth in Paragraph 67 of the
10 Complaint.

11 68. Defendants deny the allegations set forth in Paragraph 68 of the
12 Complaint. Defendants' Application to register the AFROCHELLA mark in
13 Ghana remains pending with the Registrar.

14 69. Defendants admit to filing U.S. Application Serial No. 87/779,676
15 with the United States Patent and Trademark Office ("USPTO") on February 1,
16 2018. Except as admitted herein, Defendants deny the remaining allegations set
17 forth in Paragraph 69 of the Complaint.

18 70. Defendants admit the USTOP issued a correspondence to Defendants
19 dated May 16, 2018. Except as admitted herein, Defendants deny the remaining
20 allegations set forth in Paragraph 70 of the Complaint.

21 71. Defendants admit the allegations set forth in Paragraph 71 of the
22 Complaint.

23 72. Defendants deny the allegations set forth in Paragraph 72 of the
24 Complaint.

25 73. Defendants admit Plaintiffs issued multiple correspondence to
26 Defendants dated November 14, 2019, April 19, 2022, and May 25, 2022. Except
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1 as admitted herein, Defendants deny the remaining allegations set forth in
2 Paragraph 73 of the Complaint.

3 74. Defendants admit that they engage in promotions and advertising
4 relating to the AFROCHELLA festival. Except as admitted herein, Defendants
5 deny the remaining allegations set forth in Paragraph 74 of the Complaint.

6 75. Defendants admit they own the afrochella.com domain name as a
7 means to provide information about the Afrochella music festival in Ghana.
8 Except as admitted herein, Defendants deny the remaining allegations set forth in
9 Paragraph 75 of the Complaint.

10 76. Defendants denies the allegations set forth in Paragraph 76 of the
11 Complaint.

12 77. Defendants admit their website afrochella.com provides information
13 about the Afrochella music festival in Ghana. Except as admitted herein,
14 Defendants deny the remaining allegations set forth in Paragraph 77 of the
15 Complaint.

16 78. Defendants deny the allegations set forth in Paragraph 78 of the
17 Complaint.

18 79. Defendants deny the allegations set forth in Paragraph 79 of the
19 Complaint.

20 80. Defendants admit the allegations set forth in Paragraph 80 of the
21 Complaint.

22 81. Defendants admit advertising related to the Afrochella music festival
23 can be found on global social media platforms, including Facebook, YouTube,
24 Instagram, Twitter, LinkedIn, and Apple Music, which all boast users from
25 countries all over the world, including users from Ghana. Except as admitted
26 herein, Defendants deny the remaining allegations set forth in Paragraph 81 of the
27 Complaint.
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1 82. Defendants admit the allegations set forth in Paragraph 79 of the
2 Complaint.

3 83. Defendants deny the allegations set forth in Paragraph 83 of the
4 Complaint.

5 84. Defendants deny the allegations set forth in Paragraph 84 of the
6 Complaint.

7 85. Defendants admit they are not affiliated with Plaintiffs. Except as
8 admitted herein, Defendants deny the remaining allegations set forth in Paragraph
9 85 of the Complaint.

10 86. Defendants admit they do not have a license to use any trademarks
11 pertaining to Plaintiff's Coachella music festival. Except as admitted herein,
12 Defendants deny the remaining allegations set forth in Paragraph 86 of the
13 Complaint.

14 87. Defendants deny the allegations set forth in Paragraph 87 of the
15 Complaint.

16 88. Defendants deny the allegations set forth in Paragraph 88 of the
17 Complaint.

18 89. Defendants deny the allegations set forth in Paragraph 89 of the
19 Complaint.

20 90. Defendants admit Plaintiffs issued correspondence to Defendants
21 dated November 14, 2019, April 19, 2022, and May 25, 2022. Except as admitted
22 herein, Defendants deny the remaining allegations set forth in Paragraph 90 of the
23 Complaint.

24 91. Defendants deny the allegations set forth in Paragraph 91 of the
25 Complaint.

26 92. Defendants admit the allegations set forth in Paragraph 92 of the
27 Complaint.
28

1 105. Defendants deny the allegations set forth in Paragraph 105 of the
2 Complaint.

3 106. Defendants deny the allegations set forth in Paragraph 106 of the
4 Complaint.

5 107. Defendants deny the allegations set forth in Paragraph 107 of the
6 Complaint.

7 **SECOND CAUSE OF ACTION**

8 **(Trademark and Service Mark Infringement and**
9 **False Designation of Origin Under 15 U.S.C. § 1125(a))**

10 108. Defendants reassert their answers for Paragraphs 1-107 of the
11 Complaint as if those responses were fully set forth herein.

12 109. Defendants deny the allegations set forth in Paragraph 109 of the
13 Complaint.

14 110. Defendants deny the allegations set forth in Paragraph 110 of the
15 Complaint.

16 111. Defendants deny the allegations set forth in Paragraph 111 of the
17 Complaint.

18 112. Defendants deny the allegations set forth in Paragraph 112 of the
19 Complaint.

20 113. Defendants deny the allegations set forth in Paragraph 113 of the
21 Complaint.

22 114. Defendants deny the allegations set forth in Paragraph 114 of the
23 Complaint.

24 115. Defendants deny the allegations set forth in Paragraph 115 of the
25 Complaint.

26 116. Defendants deny the allegations set forth in Paragraph 116 of the
27 Complaint.
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1 117. Defendants deny the allegations set forth in Paragraph 117 of the
2 Complaint.

3 **THIRD CAUSE OF ACTION**

4 **(Cybersquatting Under 15 U.S.C. § 1125(d))**

5 118. Defendants reassert their answers for Paragraphs 1-117 of the
6 Complaint as if those responses were fully set forth herein.

7 119. Defendants admit they own the afrochella.com domain name as a
8 means to provide information about the Afrochella music festival in Ghana.
9 Except as admitted herein, Defendants deny the remaining allegations set forth in
10 Paragraph 119 of the Complaint.

11 120. Defendants lack knowledge or information sufficient to form a belief
12 as to the truth of the allegations set forth in Paragraph 120 of the Complaint.

13 121. Defendants deny the allegations set forth in Paragraph 121 of the
14 Complaint.

15 122. Defendants deny the allegations set forth in Paragraph 122 of the
16 Complaint.

17 123. Defendants deny the allegations set forth in Paragraph 123 of the
18 Complaint.

19 124. Defendants deny the allegations set forth in Paragraph 124 of the
20 Complaint.

21 125. Defendants deny the allegations set forth in Paragraph 125 of the
22 Complaint.

23 126. Defendants deny the allegations set forth in Paragraph 126 of the
24 Complaint.

25 127. Defendants deny the allegations set forth in Paragraph 127 of the
26 Complaint.
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1 128. Defendants deny the allegations set forth in Paragraph 128 of the
2 Complaint.

3 129. Defendants deny the allegations set forth in Paragraph 129 of the
4 Complaint.

5 130. Defendants deny the allegations set forth in Paragraph 130 of the
6 Complaint.

7
8 **FOURTH CAUSE OF ACTION**

9 **(Violation of California Unfair Competition**
10 **and Common Law Trademark Law)**

11 131. Defendants reassert their answers for Paragraphs 1-130 of the
12 Complaint as if those responses were fully set forth herein.

13 132. Defendants deny the allegations set forth in Paragraph 132 of the
14 Complaint.

15 133. Defendants deny the allegations set forth in Paragraph 133 of the
16 Complaint.

17 134. Defendants deny the allegations set forth in Paragraph 134 of the
18 Complaint.

19 135. Defendants deny the allegations set forth in Paragraph 135 of the
20 Complaint.

21 136. Defendants deny the allegations set forth in Paragraph 136 of the
22 Complaint.

23 137. Defendants deny the allegations set forth in Paragraph 137 of the
24 Complaint.

25 **AFFIRMATIVE DEFENSES**

26 Defendants assert the following additional defenses to the Complaint. In
27 doing so, Defendants do not assume any burden of proof on any issue that is
28

1 Plaintiff's burden as a matter of law. Defendants reserve the right to amend or
2 supplement these defenses as additional facts become known.

3 **FIRST AFFIRMATIVE DEFENSE**

4 **(Failure to state a claim)**

5 1. Plaintiffs have failed to allege facts sufficient to state a claim on
6 which relief can be granted.

7 **SECOND AFFIRMATIVE DEFENSE**

8 **(Lack of Secondary Meaning)**

9 2. The claims made in the Complaint are barred in whole or in part, on
10 the basis that the "CHELLA" mark at issue lacks distinctiveness, including
11 without limitation, secondary meaning.

12 **THIRD AFFIRMATIVE DEFENSE**

13 **(Abandonment)**

14 3. Plaintiffs have failed to diligently prosecute other individuals and/or
15 entities that have made use of the phrases "COACHELLA" and "CHELLA" and
16 have, therefore, abandoned any rights in that purported trademark. Plaintiffs have
17 further abandoned any rights to the trademark at issue by and through the various
18 assignments in gross.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 **(No Damages)**

21 4. Plaintiffs have not been damaged in any amount, manner or at all by
22 reason of any act alleged against Defendants in the Complaint, and, therefore, the
23 relief prayed for in the Complaint cannot be granted.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 **(Laches)**

26 5. Plaintiffs' claims are barred by the doctrine of laches.

27 **SIXTH AFFIRMATIVE DEFENSE**

1 (Estoppel)

2 6. Plaintiffs' claims are barred by the doctrine of estoppel.

3 **SEVENTH AFFIRMATIVE DEFENSE**

4 (Acquiescence)

5 7. Plaintiffs' claims are barred by the doctrine of acquiescence.

6 **RESERVATION OF ADDITIONAL DEFENSES**

7 Defendants reserve any and all additional defenses available to them under
8 Title 15 of the United States Code or under the rules, regulations, and laws related
9 thereto, the Federal Rules of Civil Procedure, the Rules of this Court, or
10 otherwise in law or equity, now existing, or later arising, including inequitable
11 conduct, in the event that discovery or other analysis indicates that additional
12 defenses are appropriate.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Defendants respectfully request denial of all relief
15 requested by Plaintiffs and dismissal of Plaintiffs' claims in their entirety with
16 prejudice, and that the Court enters an order and judgment as follows:

17 A. Dismissing the Complaint in this action in its entirety with prejudice
18 and entry of judgment in favor of Defendants;

19 B. Awarding Defendants reasonable attorneys' fees and costs incurred
20 in connection with this action pursuant to 15 U.S.C. § 1117 and other applicable
21 law;

22 C. Ordering cancellation of U.S. Trademark Registration No.
23 5,520,063, and certifying such order to the Director of the U.S. Patent &
24 Trademark Office in accordance with 15 U.S.C. § 1119; and

25 D. Granting Defendants such further and other relief as this Court may
26 deem just, lawful or equitable.
27

28 **DEMAND FOR JURY TRIAL**

1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Defendants
2 hereby demand a trial by jury on all issues triable by jury alleged or relating to
3 this litigation.
4

5 Date: December 13, 2022

STEPTOE & JOHNSON LLP

6 By: /s/ Tahir L. Boykins

7 Robyn C. Crowther

8 Michael J. Allan

9 Tahir L. Boykins

Melanie A. Ayerh

10 Attorneys for Defendants

11 AFROCHELLA LIMITED; BBNZ

12 LIVE LIMITED; CULUTRE

13 MANAGEMENT GROUP LIMITED
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